

4. The system of claim 3 wherein said spacing distance is less than distance from the first joint of the user's thumb and the tip of the user's thumb.

*32* *53* 6. (Amended) The system of claim [5] 4 wherein said receiving card and said plate are substantially rectangular in shape.

7. The system of claim 6 wherein said extensions extend into said pipette tips a distance from about one fourth of said spacing distance to about one half of said spacing distance.

8. The system of claim 7 wherein said plurality of extensions includes an extension for positioning into each pipette tip on the receiving card.

#### REMARKS

Applicant submitted a PRELIMINARY AMENDMENT dated March 17, 2000 which was date stamped at the Patent Office on March 23, 2000 as evident from the photocopy of the referenced post card. It thus is apparent that the preliminary amendment was timely received although it is apparent that there was insufficient time for the amendment to be entered.

Thus claim 1 was examined. However claim 1 was canceled in favor of claims 2-8 which theoretically should have been examined. As stated hereinafter, the claims as entered in the preliminary amendment and as amended here should all be allowable.

#### SUBSTITUTE DECLARATION

The declaration was found defective because Mr. Timpson failed to include his address. Applicants here provide a substitute declaration for Mr. Timpson to avoid rejection or objection.

#### SPECIFICATION

Applicants make corrections to numbers on page 7 and on page 2 to an incorrect date and to an incorrect rule. No new matter is presented.

#### REJECTION UNDER 112

Claim 1 stands rejected under 35 U.S.C. § 112 because of an inaccurate description. Applicants disagree. It is readily apparent how the system operates by reading the summary of

the invention and by reading on to lines 7-10 on page 10. Those of skill in the art would have no difficulty in understanding that such is the intended meaning. That is, the extension of the transfer tool extend into the pipette tip tops to stabilize them.

Applicants thus make a correction to a grammatical error on page 10 at line 5. That is, it is clear that the transfer member is urged "toward" the receiving card or plate 20 to engage the pipette tips extending upwardly therefrom. Thus, no new matter is provided.

## CLAIMS

By this amendment or by the PREMLIMINARY AMENDMENT, claims 2-8 were presented and are now reduced to six with the cancellation of claim 1 and claim 5.

Claim 1 stood rejected under 35 USC § 102 as anticipated by each of Scaramella, *et al.*, Ward and Astle.

As to Scaramella, claim 2 as amended is not anticipated because it does not HAVE the locking means or mechanism to lock the transfer tool to the card. The undersurface of the transfer tool only has extensions for engaging the pipette tips. IT DOES NOT HAVE A LOCKING MEANS OR MECHANISM as taught by Scaramella, *et al.* Thus the structure presented differs from Scaramella, *et al.* which has a locking means extending from the transfer tool.

Further, the extensions protruding from the undersurface of the transfer tool as claimed are sized to extend into the pipette tips a distance to stably engage. The extensions of Scaramella, *et al.* extend into the pipette tips but not a distance to effect stable engagement. Thus Scaramella neither anticipates nor teaches the inventions as claimed.

As to Ward, the device 28 is the tray into which pipette tips are placed. There is no separate transfer card or transfer tool illustrated or disclosed in FIG. 6. Thus the rejection was not sound and should be withdrawn.

Regarding Astle, there is no transfer tool or transfer card. In fact, Astel teaches and illustrates the type of wasteful system that has multiple trays 10 that fill up the trash cans of the user.

The rejections of claim 1 have been avoided and in turn claim 2 and dependent claims 3, 4, and 6-8 are deemed allowable over the art.

## OFFICE ACTION STATUS

Because the preliminary amendment made it to the Patent office before the Office Action of March 23, 2000, Applicants assert that claims 2-8 should have been examined. Thus any office action required should not be final because applicant did not have the examination on the submitted claims as proposed.

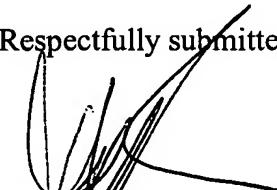
### CONCLUSION

The present application present allowable claims because they define over and are an improvement over the art. That is, it was clever to develop a pipette tip transfer system that has no attaching or locking device and is operable by the fingers of a user. The system is cheaper, easier to use and less wasteful.

Please charge any fees that may be required to deposit account 08-2665.

If there are questions, the Examiner can reach applicants' counsel at (801) 521 5800 or by e-mail at rossat@HRO.com. Please note that applicants' counsel is now at a new address.

Respectfully submitted,



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Dated: September 25, 2000

Encl: Substitute Declaration of Inventor Timpson